



United States  
Department of  
Agriculture

Farmers  
Home  
Administration

Washington  
D.C.  
20250

FmHA AN No. 2131 (1965)

August 13, 1990

SUBJECT: ASCS Conservation Reserve Program (Farmer Programs)

TO: State Directors, District Directors, and  
County Supervisors

**PURPOSE/INTENDED OUTCOME:**

The purpose of this AN is to provide guidance for servicing Farmer Programs borrowers' accounts when FmHA real estate security has been accepted into the ASCS Conservation Reserve Program (CRP). The intended outcome is to protect FmHA's security interest in real estate and document the use of CRP proceeds in the farm operation.

**COMPARISON WITH PREVIOUS AN:**

This AN replaces FmHA AN 1742 (1965) dated April 1, 1988, which expired on March 31, 1989.

**IMPLEMENTATION RESPONSIBILITIES:**

County Supervisors will contact ASCS for a list of persons who offer a bid or have been enrolled in the CRP. A copy of this list will be forwarded to their respective District Director. The County Supervisor will contact borrowers whose bids are accepted and those who offer bids for future sign-up periods to discuss the borrowers' plans for the farming operation. Borrowers who have placed all or a portion of their farms into the CRP will be considered to be operating this farm for purposes of servicing under FmHA Instruction 1965-A.

If an FmHA loan was made to plant a protective cover required by the CRP contract or if necessary to assure debt repayment to FmHA, loan applicants and borrowers will be required to assign CRP cash payments and any cost share proceeds to FmHA through ASCS. The Security Agreement (Crops and Chattels), in part II of Item 4 of FmHA Form 440-4, will be modified to state that FmHA has taken an assignment in CRP cash payments.

EXPIRATION DATE: July 31, 1991

FILING INSTRUCTIONS:  
Preceding FmHA  
Instruction 1965-A



Farmers Home Administration is an Equal Opportunity Lender.  
Complaints of discrimination should be sent to:  
Secretary of Agriculture, Washington, D.C. 20250

2131(1965)

The borrower's use of CRP payments for operating expenses whether in cash or certificates, will be documented as per Section 1924.57(b)(1)(vi) of FmHA Instruction 1924-B on Form FmHA 431-2, "Farm and Home Plan," Form FmHA 1962-1, "Agreement for the Use of Proceeds/Release of Chattel Security." This will also serve as documentation to the use of the proceeds to pay any Commodity Credit Corporation overdue loan prior to payment to FmHA.

ASCS regulations do not allow the assignment of commodity certificates. However, the documentation of these certificates on the above mentioned FmHA forms creates a contract between the borrower and FmHA. Unauthorized disposition of these certificates will be considered as conversion of FmHA security property. No third party conversion action will be taken against ASCS or purchasers of these certificates.

FmHA cannot accept voluntary transfers of commodity certificates to FmHA, unless the requirements outlined in Section 1955.20(b) of FmHA Instruction 1955-A are met. The County Supervisor will make every effort to encourage the borrower to market the certificates and apply the proceeds to his accounts. If the borrower insists on transferring the certificate to FmHA, FmHA will prepare Form FmHA 455-4, "Agreement for Voluntary Liquidation of Chattel Security."

The above mentioned form and method of liquidation will be undertaken only if the certificate is listed on Form FmHA 1962-1, with FmHA shown as the recipient of the income from the sale of the certificate. Further, this must be documented to show that the certificate will be marketed prior to the expiration of the certificate, as well as the broker who will purchase the certificate.

To complete Form FmHA 455-4, the following language will be added by the County Supervisor in item 1: "(1) The borrower chooses to sell Certificate No. \_\_\_\_\_ to \_\_\_\_\_. (2) The borrower accepts the market price on the date of disposal of Certificate No. \_\_\_\_\_. (3) Proceeds from the sale of Certificate No. \_\_\_\_\_ will be used as set forth on Form FmHA 1962-1." No minimum price will be listed.

The County Supervisor will dispose of the certificate the same day, but no later than 5 working days from receipt of Form FmHA 455-4.

2131(1965)

District Directors will review all files, based on the list provided by the County Supervisor of borrowers enrolled in the CRP program, to ensure that these payments are documented as per FmHA Instructions and this AN. Should this documentation be missing, a followup report will be submitted by the County Supervisor to the District Director within 10 working days stating that this has been accomplished. The District Director will also inform the State Director of the deficiencies noted and the plan of action implemented to resolve the problem. The District Director will then review these files on the next visit to insure compliance.

If you have any questions, please contact Mr. Gary West of Farmer Programs Loan Servicing and Property Management Division at FTS 382-1976 or commercial (202) 382-1976.



LA VERNE AUSMAN  
Administrator

Sent by Time Delay Option to States at 4:00 pm on 8/14/90 ; to Districts at 9:00 am on 8/15/90 ; and Counties at 11:00 on 8/15/90 by ASD.



FmHA AN 2135 (1951)

August 17, 1990

SUBJECT: Farmer Program Borrowers Previously Referred for Administrative Offset - Additional Guidance and Revised Letter

TO: State Directors, District Directors, and County Supervisors

PURPOSE/INTENDED OUTCOME: This Administrative Notice (AN) is issued to clarify the procedures to be taken concerning those borrowers who had been referred for administrative offset between November 26, 1986, and December 7, 1987. It also revises the letter that gives these borrowers additional rights concerning administrative offset.

COMPARISON WITH PREVIOUS AN: FmHA AN 2110 (1951), dated July 3, 1990, provided initial guidance on this subject.

IMPLEMENTATION RESPONSIBILITIES: The letter that appeared in AN 2110 as Attachment 1 should have been sent out by the County Offices by certified mail to ALL people who were previously referred for administrative offset between November 26, 1986, and December 7, 1987, no matter what their current status is. If a County Office sent FmHA Form Letter 1951-3 to another Federal agency referring a person for administrative offset [not Internal Revenue Service (IRS) or salary offset] during this time period, that person should have been sent this letter.

After AN 2110 was mailed to the field offices, the Office of General Counsel (OGC) requested that revisions be made to the letter in Attachment 1 of AN 2110. These revisions correct legal deficiencies concerning those borrowers previously referred for offset whose debt has been discharged in bankruptcy, is currently in a confirmed Chapter 12 or 13 bankruptcy plan or is in a pending bankruptcy proceeding, but a reorganization plan has not been confirmed. The revised letter is attached. The Finance Office will send this revised letter by regular mail to ALL people referred for administrative offset during the period mentioned above. The Finance Office has not and will not mail the original letter.

The County Offices will photocopy the attached letter, type on the current date and borrower return address, and send it by certified mail, return receipt requested, to those borrowers who are on the administrative offset mailing list dated 7/10/90 (sent to the County Offices by the Finance Office) AND who meet the bankruptcy categories stated in the preceding paragraph. This revised letter does not need to be sent by the County Offices to any other borrowers except those who fall under the bankruptcy categories. County Offices will complete this mailing within 2 weeks from the date of receipt of this AN.

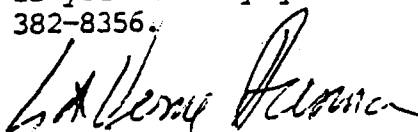
EXPIRATION DATE: May 31, 1991

FILING INSTRUCTIONS: Preceding FmHA  
Instruction 1951-C



The County Offices will report to the State Office within two weeks from the receipt of this AN the name and case number of the bankruptcy borrowers who were sent the revised letter. Within three weeks from the date of receipt of this AN, the State Offices will consolidate this information and forward it to the National Office, FMAD, Room 5049-S, Attention: Jeanne Hudec.

If you have any questions, please call Jeanne Hudec at (202) 382-3856 or FTS 382-8356.



LA VERNE AUSMAN  
Administrator

Attachment



Dear Borrower:

This letter gives further reference to the additional rights you may have concerning the use of administrative offset to collect the debt or debts you owe(d) Farmers Home Administration (FmHA).

FmHA records indicate that between November 26, 1986, and December 7, 1987, you had a delinquent FmHA loan(s), and FmHA sought to collect some of the delinquency through administrative offset. Under the administrative offset procedure, FmHA sought to collect money that you were owed by other Federal agencies [primarily Agricultural Stabilization and Conservation Service (ASCS) and Commodity Credit Corporation (CCC)] and apply it to your debt to FmHA. You were sent a notice from FmHA indicating that FmHA would be seeking administrative offset. When FmHA determined to use administrative offset, FmHA sent a letter to the other Federal agency or agencies which owed you funds and advised the other agency to pay FmHA instead of you.

You are eligible for these additional rights if, (a) you are currently a borrower with FmHA, and FmHA collected money from you using administrative offset; (b) you are currently a borrower with FmHA, FmHA sent an administrative offset request to another Federal agency, and that request is still pending at that agency; OR (c) you are no longer a borrower with FmHA and FmHA collected money from you using administrative offset.

If you are no longer a borrower because you purchased the property under the Net Recovery Buyout program, your account has been debt settled, discharged in bankruptcy, is currently in a confirmed Chapter 12 or 13 bankruptcy plan, paid in full, or otherwise resolved, AND an administrative offset request is pending at another Federal agency, FmHA will retract the request automatically. You do not need to request a meeting or a review.

You have the right to a meeting with an FmHA official who will determine if the prior offset decision was correct, and the right to a full administrative appeal of the offset or offset request under FmHA's Appeal Procedure. This letter advises you of how to seek this further review.

If you had funds actually offset between November 26, 1986, and December 7, 1987, this review will examine:

- \* whether you owed the debt or debts mentioned in the offset referral and whether the amounts FmHA claims that you owed at that time were correct, and/or
- \* whether the offset of the funds during this period caused an extreme hardship for you or was unfair for some other reason.

In cases where the use of administrative offset resulted in money being paid to FmHA, the money was applied to your account when it was received. If, after the

